

**THE EFFECTIVE DATE OF THIS ORDINANCE IS AUGUST 2, 2004**

**ORDINANCE NO. 04-11-355**

**RE: Hotel Rental Tax**

**PREAMBLE**

Pursuant to Annotated Code of Maryland, Article 24, Political Subdivision, Subtitle 3, Hotel Rental Tax, Section 9-301, et seq., the Board of County Commissioners of Frederick County is authorized to fix, establish, impose and collect a hotel rental tax.

Pursuant to the above authority, The Board of County Commissioners desires to establish the hotel rental tax, which shall be codified in Frederick County Code Sections 1-8-161 et seq., entitled Hotel Rental Tax.

The Board of County Commissioners held a duly advertised public hearing concerning this Ordinance on July 15, 2004. The public had an opportunity to comment on this Ordinance at this public hearing.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND,** that sections 1-8-161 through 1-8-168 are hereby added to the Frederick County Code to read as follows:

**ARTICLE VI. HOTEL RENTAL TAX**

**SEC. 1-8-161. DEFINITIONS.**

IN THIS ARTICLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:

**DIRECTOR** – THE DIRECTOR OF FINANCE FOR FREDERICK COUNTY.

**HOTEL** – ANY INDIVIDUAL, CORPORATION, COMPANY, ASSOCIATION, FIRM, PARTNERSHIP OR SIMILAR ENTITY WHICH OWNS OR OPERATES AN ESTABLISHMENT THAT OFFERS SLEEPING ACCOMMODATIONS FOR COMPENSATION. HOTEL ALSO INCLUDES AN APARTMENT, COTTAGE, HOSTELRY, INN, MOTEL, ROOMING HOUSE, OR TOURIST HOME. HOTEL DOES NOT INCLUDE A FACILITY WITH 10 OR FEWER SLEEPING ROOMS IN ITS MAIN BUILDING AND NO MORE THAN 20 ADDITIONAL SLEEPING ROOMS IN AUXILIARY STRUCTURES ON THE FACILITY'S PROPERTY.

**HOTEL RENTAL TAX** – THE TAX AUTHORIZED UNDER THIS ARTICLE.

**TOURISM COUNCIL** – THE TOURISM COUNCIL OF FREDERICK COUNTY, INC.

**TRANSIENT CHARGE** – A HOTEL CHARGE FOR SLEEPING ACCOMMODATIONS FOR A PERIOD NOT EXCEEDING 30 CONSECUTIVE DAYS. THE TRANSIT CHARGE SHALL BE MEASURED BY AN INDIVIDUAL'S STAY AT A HOTEL, REGARDLESS OF WHETHER THE HOTEL ACCOMODATIONS ARE RENTED FOR MORE THAN 30 CONSECUTIVE DAYS AND IRRESPECTIVE OF WHO ACTUALLY PAYS THE HOTEL FOR THESE ACCOMODATIONS. TRANSIENT CHARGE DOES NOT INCLUDE ANY HOTEL CHARGE FOR SERVICES OR FOR ACCOMMODATIONS OTHER THAN SLEEPING ACCOMMODATIONS.

**TREASURER** – THE TREASURER OF FREDERICK COUNTY WITH ALL THE DUTIES AND RESPONSIBILITIES AS PRESCRIBED BY LAW. THE TREASURER IS DIRECTLY RESPONSIBLE TO THE DIRECTOR OF FINANCE FOR FREDERICK COUNTY.

**SEC. 1-8-162. TAX LEVIED.**

A TAX OF 3% IS HEREBY IMPOSED ON EACH TRANSIENT CHARGE PAID TO A HOTEL LOCATED IN FREDERICK COUNTY.

**SEC. 1-8-163. IDENTIFICATION AND COLLECTION; TAX HELD IN TRUST.**

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

- A. A HOTEL SHALL:
  - (1) GIVE THE PERSON WHO IS REQUIRED TO PAY A TRANSIENT CHARGE A BILL THAT IDENTIFIES THE TRANSIENT CHARGE AS A SEPARATE ITEM FROM ANY OTHER CHARGE; AND
  - (2) COLLECT THE HOTEL RENTAL TAX FROM THE PERSON WHO PAYS THE TRANSIENT CHARGE.
- B. A HOTEL HOLDS HOTEL RENTAL TAX COLLECTED IN TRUST FOR FREDERICK COUNTY UNTIL THE HOTEL PAYS THE TAX TO FREDERICK COUNTY AS REQUIRED UNDER THIS ARTICLE.

**SEC. 1-8-164. FILING OF RETURNS.**

- A. A HOTEL SHALL COMPLETE, SIGN AND FILE A HOTEL RENTAL TAX RETURN WITH THE TREASURER ON OR BEFORE THE 21<sup>ST</sup> DAY OF EACH MONTH.
- B. A HOTEL RENTAL TAX RETURN SHALL BE FILED ON THE FORM PRESCRIBED BY THE DIRECTOR WHICH SHALL CONTAIN ALL INFORMATION REQUIRED, INCLUDING THE AMOUNT OF TRANSIENT CHARGES PAID TO THE HOTEL DURING THE PRIOR CALENDAR MONTH AND THE HOTEL RENTAL TAX REQUIRED TO BE COLLECTED DURING THE PRIOR CALENDAR MONTH.
- C. A HOTEL SHALL PAY TO THE TREASURER OF FREDERICK COUNTY THE TAX COLLECTED FOR A CALENDAR MONTH WITH THE RETURN THAT COVERS THAT MONTH.
- D. A HOTEL MAY RECEIVE FOR ADMINISTRATIVE COSTS A DISCOUNT EQUAL TO 1.5% OF THE GROSS AMOUNT OF HOTEL RENTAL TAX COLLECTED IF, ON OR BEFORE THE DUE DATE, THE HOTEL:
  - (1) FILES THE HOTEL RENTAL TAX RETURN; AND

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

**(2) PAYS THE HOTEL RENTAL TAX.**

**SEC. 1-8-165. ADOPTION OF REGULATIONS.**

TO PROVIDE FOR ORDERLY, SYSTEMATIC AND THOROUGH ADMINISTRATION OF THE HOTEL RENTAL TAX, THE DIRECTOR MAY ADOPT REGULATIONS NOT INCONSISTENT WITH THIS ARTICLE AND WHICH CONFORM TO THE APPLICABLE PROVISIONS AND REGULATIONS FOR THE SALES AND USE TAX AS ESTABLISHED UNDER TITLE 11 OF THE ANNOTATED CODE OF MARYLAND TAX-GENERAL ARTICLE.

**SEC. 1-8-166. DISTRIBUTION OF REVENUE.**

- A. HOTEL RENTAL TAX REVENUE SHALL BE USED FIRST TO PAY FOR HOTEL RENTAL TAX ADMINISTRATIVE COSTS OF THE COUNTY.
- B. THE REMAINING BALANCE OF HOTEL RENTAL TAX REVENUE SHALL BE PAID TO THE TOURISM COUNCIL WITH A PORTION OF THE BALANCE DESIGNATED BY THE COUNTY COMMISSIONERS TO BE USED FOR A VISITOR CENTER.
- C. AT LEAST EVERY TWO YEARS THE INTERNAL AUDITOR OF THE COUNTY SHALL CONDUCT AN AUDIT OF THE FINANCIAL RECORDS OF THE TOURISM COUNCIL AND REPORT THE FINDINGS TO THE COUNTY COMMISSIONERS.

**SEC. 1-8-167. FAILURE TO PAY TAX; LIEN.**

- A. IF A HOTEL FAILS TO PAY THE HOTEL RENTAL TAX AS REQUIRED BY THIS ARTICLE, THE HOTEL SHALL PAY INTEREST ON THE UNPAID TAX FROM THE DATE ON WHICH THE HOTEL IS REQUIRED TO PAY THE TAX TO THE DATE THAT THE TAX IS PAID. THE INTEREST RATE FOR EACH MONTH OR FRACTION OF A MONTH IS ONE-HALF OF ONE PERCENT (0.5%).

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

- B. IF A HOTEL FAILS TO PAY THE HOTEL RENTAL TAX WITHIN ONE MONTH AFTER THE PAYMENT IS DUE UNDER THIS ARTICLE, THE HOTEL SHALL PAY A TAX PENALTY OF 10% OF THE UNPAID TAX.
- D. UNPAID HOTEL RENTAL TAX IS A LIEN AGAINST THE REAL AND PERSONAL PROPERTY OF THE HOTEL OWING THE TAX AND IS COLLECTIBLE IN THE SAME MANNER AS THE PROPERTY TAX MAY BE COLLECTED UNDER THE TAX-PROPERTY ARTICLE OF THE ANNOTATED CODE OF MARYLAND.
- D. UNPAID HOTEL RENTAL TAX MAY ALSO BE COLLECTED BY DISTRAINT. IN ADDITION, FREDERICK COUNTY MAY FILE A CIVIL ACTION TO COLLECT UNPAID HOTEL RENTAL TAX.

**SEC. 1-8-168. SECURITY.**

- A. TO PROTECT HOTEL RENTAL TAX REVENUE, THE DIRECTOR MAY REQUIRE A HOTEL TO FILE SECURITY WITH FREDERICK COUNTY IN SUCH AMOUNT AS THE DIRECTOR BELIEVES NECESSARY. SUCH SECURITY SHALL BE:
  - (1) A BOND ISSUED BY A SURETY COMPANY THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE AND APPROVED BY THE MARYLAND INSURANCE COMMISSIONER AS TO SOLVENCY AND RESPONSIBILITY;
  - (2) CASH; OR
  - (3) SECURITIES APPROVED BY THE DIRECTOR.
- B. IF SECURITY IS REQUIRED, THE DIRECTOR SHALL NOTIFY THE HOTEL OF THE AMOUNT OF SECURITY REQUIRED. WITHIN 5 DAYS AFTER A HOTEL RECEIVES NOTICE OF THE REQUIRED SECURITY, THE HOTEL SHALL:

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.


- (1) FILE THE SECURITY; OR
  - (2) SUBMIT A WRITTEN REQUEST FOR A HEARING ON THE SECURITY REQUIREMENT.
- C. IF A HEARING IS REQUESTED, THE DIRECTOR SHALL HOLD A HEARING TO DETERMINE THE NECESSITY, PROPRIETY, AND AMOUNT OF THE SECURITY. THE DETERMINATION OF THE DIRECTOR, ACTING ON BEHALF OF FREDERICK COUNTY, IS FINAL, AND THE HOTEL SHALL COMPLY WITHIN 15 DAYS AFTER THE HOTEL RECEIVES NOTICE OF THE DETERMINATION.
- D. WITHOUT NOTICE TO A HOTEL THAT FILES SECURITY AS REQUIRED UNDER THIS ORDINANCE, THE DIRECTOR AT ANY TIME MAY:
- (1) APPLY THE CASH TO THE HOTEL RENTAL TAX DUE; OR
  - (2) SELL THE SECURITY AND APPLY THE PROCEEDS OF THE SALE TO THE HOTEL RENTAL TAX DUE.

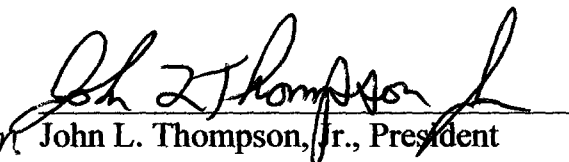
**AND BE IT FURTHER ENACTED AND ORDAINED BY THE  
BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY,  
MARYLAND,** that this Ordinance shall take effect on August 2, 2004.

The undersigned hereby certifies that this Ordinance was approved and adopted on the 15th day of July, 2004.

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND**

  
Douglas D. Browning  
County Manager

  
John L. Thompson, Jr., President

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CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.